

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COURT RECEIVER'S REPORT NO.59 OF 2006
IN
SUIT NO.517 OF 1966

The Trustees of the Port of Bombay. ... Plaintiff

vs.

Sayed Abdul H.M.S.Kadri & another. ... Defendants.

And

The Associated Corporation of Industries
(India) Pvt. Ltd. ... Respondents.

Mr.V.J.Makhija i/b. Mulla & Mulla, for Plaintiff.

Mr.V.T.Bhagat i/b. Vasant & Co. for Defendant no.D1(B).

Mr.Denzil D'Mello, for Respondents.

CORAM: D.K.DESHMUKH,J.

DATED: 26th September,2006

P.C.:-

1. Perused the report. Perused the order dated 29.1.2003. By the report the Receiver seeks modification of order dated 29.1.2003 passed by this Court on the Receiver's report. Order dated 29.1.2003 reads as under:-

"The learned Counsel appearing for plaintiff /decree holder states that there is no order passed in execution of the

decree, according to which, the Receiver can take possession of the property to which the decree relates. The statement is accepted. In view of this statement, the Receiver's report is disposed of."

According to the Receiver's report there is an order made by the Court directing the Receiver to take possession of the property. Even assuming that the statement made by the Receiver in the report is correct, the Receiver is appointed in execution of a decree for benefit of the decree holder. When the Receiver takes possession in execution of the decree obviously it is for the benefit of the decree holder. But when the decree holder himself says that the Receiver is not entitled to take possession then, in my opinion, the inquiry should end. The learned Counsel appearing for decree holder even today says that there is no order authorising the Receiver to take possession of the property in relation to which the decree is passed. He has made the same statement before the Court on 29.1.2003 also, which has been recorded by the Court. In this view of the matter, there is no point in Receiver maintaining possession because the Receiver is maintaining possession obviously for the benefit of the decree holder. In this view of the matter therefore, the Receiver is directed to hand over the possession of the property back to the party from whom the Receiver has taken possession. The Report is disposed of.